

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

UNITED STATES OF AMERICA :  
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:  
V. : No. 19-cr-00518-001  
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:  
NEIL K. ANAND :  
:

Neil K. Anand's Combined Motion  
and Memorandum of Law  
for Order for Government Agents to Retain Rough Notes

COMES NOW, Neil K. Anand, Defendant, by and through his counsel, Coley O. Reynolds, Esquire, moving for an Order requiring all government law enforcement officers who investigated the charges in this and related cases to retain and preserve all rough notes as part of their investigation, notwithstanding whether or not the contents of said notes were incorporated in official records.

This motion is made to enable the Trial Court to determine whether disclosure of the said notes is required under *Brady v. Maryland*, 3737 U.S. 83 (1963), or the *Jencks Act* (18 U.S.C. Section 3500). In support of this motion, the following is submitted:

In *United States v. Vella*, 562 F.2d 275 (3d. Cir. 1977), the Third Circuit adopted the procedure regarding retention of rough notes set forth in *United States v. Harrison*, 524 F.2d 421 (D.C. Cir. 1975). *Harrison* held the decision regarding

whether rough notes are discoverable is for the Court to decide and not the government. Further, *Harrison* requires the Court to decide what constitutes a producible “statement” under the *Jencks* Act, not the government. *Id.* 18 U.S.C.A. § 3500-355(e).

Rough, handwritten notes taken by agents of the government in interviewing witnesses are potentially discoverable material required to be preserved and produced even if the notes were not discoverable under the *Jencks* Act, and the government's practice of destroying the notes after preparation of the witness interview report is not justified either on the grounds that preservation of the notes would impose an intolerable burden on the government or that all of the information was preserved in the report. 18 U.S.C.A. Section 3500. See also, *United States v. Maynard*, 476 F.2d 1170, 176-78 (D.C. Cir.1972) and *United States v. Bundy*, 472 F.2d 1266, 1267 (D.C. Cir., 1972), but see *United States v. Terrell*, 474 F.2d 872, 877 (2nd Cir., 1973)(*Jencks* Act imposes no duty on law enforcement officers to retain rough notes when their contents are in official records and they destroy their notes in good faith). However, *Terrell* also held that such rough notes are producible except when they are destroyed in good faith. It is Dr. Anand's position that no destruction can be made in good faith after this request for the preservation of such agency's rough notes.

WHEREFORE, Defendant, Neil K. Anand, respectfully requests this Honorable Court GRANT his motion and require the government to preserve all rough notes until such time as the Court can rule on whether the notes are discoverable.

Respectfully submitted,

Dated: October 16, 2023

/s/ Coley O. Reynolds  
By: Coley O. Reynolds, Esquire  
Counsel for Neil K. Anand  
PA ID No.: 87923  
121 S. Broad Street, Suite 1200  
Philadelphia, PA 19107  
267-710-1177  
cor@reynoldsfirm.com

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Order

AND NOW, this \_\_\_\_\_ day of \_\_\_\_\_, 2023, upon consideration  
of Neil K. Anand's Motion for Government Agents to Retain Rough Notes, it is  
hereby ORDERED and DECREED that said Motion is GRANTED and the  
government agents in this matter shall retain their rough notes until further order  
of the Court.

By the Court:

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HON. GENE E.K. PRATTER  
Judge, United States District Court

Certificate of Service

I, Coley O. Reynolds, Esquire, counsel for Neil K. Anand, the defendant, hereby certify a true and correct copy of the attached Motion has been served upon the following:

Darren C. Halverson, Esquire  
U.S. Department of Justice  
Suite 700  
970 Broad Street  
Newark, NJ 07102  
(*via ECF and email: darren.helverson@usdoj.gov*)

Paul J. Koob, Esquire  
U.S. Department of Justice  
Criminal Division, Fraud Section  
402 E. State Street, Suite 430  
Trenton, NJ 08608  
(*via ECF and email: paul.koob2@usdoj.gov*)

Kathleen M. Gaughan, Esquire  
Counsel for Asif Kundt  
Federal Defender's Office  
601 Walnut Street, Suite 540  
Philadelphia, PA 19106  
(*via ECF and email: kathleen\_gaughan@fd.org*)

Dina Chavar, Esquire  
Counsel for Atif Mahmood Malik  
1007 North Orange Street, 4<sup>th</sup> Floor  
Wilmington, DE 19801  
(*via ECF and email: dina@dinachavar.com*)

Paul J. Hetznecker, Esquire  
1420 Walnut Street, Suite 911  
Philadelphia, PA 19102  
(*via ECF and email: phetznecker@aol.com*)

Dated: October 16, 2023

/s/ Coley O. Reynolds

Coley O. Reynolds, Esquire